

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

U.S. SMALL BUSINESS ADMINISTRATION,
as receiver of ELK ASSOCIATES FUNDING CORP.,

Plaintiff,

-against-

ADOPTION ORDER
17-CV-3586(JS) (SIL)

MICHAEL FEINSOD, RICHARD FEINSTEIN,
JOHN LAIRD, IVAN J. WOLPERT,
HOWARD SOMMER, MURRAY INDICK,
ELLIOT SINGER, and PETER BOOCKVAR,

Defendants.

-----X

SEYBERT, District Judge:

Plaintiff, the U.S. Small Business Administration, as receiver of Elk Associates Funding Corp. ("Plaintiff"), commenced this action against Defendants asserting claims for: (1) breach of fiduciary duty, (2) ultra vires acts, (3) waste of corporate assets, (4) conversion, (5) negligence, (6) aiding and abetting a breach of fiduciary duty, (7) civil conspiracy, and (8) gross negligence, arising out of Defendants' conduct as officers and directors of Elk Associates Funding Corp. (See Compl., ECF No. 1.) On May 15, 2020, Plaintiff filed a motion to amend the Complaint. (Mot., ECF No. 147.) On February 4, 2021, Magistrate Judge Steven I. Locke issued a Report and Recommendation ("R&R") recommending that the Court grant Plaintiff's motion. (R&R, ECF No. 164.)

The time to object has expired and no objections to the R&R have been filed. Upon careful review and consideration, the Court finds Judge Locke's R&R to be comprehensive, well-reasoned, and free of clear error. Accordingly, the Court ADOPTS the R&R (ECF No. 164) in its entirety and Plaintiff's motion to amend the Complaint (ECF No. 147) is GRANTED. Within thirty (30) days from the date of this Order, Plaintiff shall file a First Amended Complaint to conform to the Court's September 30, 2018 Order (ECF No. 66), as discussed in the R&R, and to assert new facts against Defendant Murray Indick.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: February 23, 2021
Central Islip, New York